

Express Mail No. EH6364910166US

**DECLARATION FOR PATENT APPLICATION AND
POWER OF ATTORNEY**

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I (we) believe we are the original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled

**Intermediate Release Nicotinic Acid Compositions for Treating Hyperlipidemia Having
Unique Cmax, Tmax and AUC Biopharmaceutical Characteristics**

the specification of which

(Check one)

X is attached hereto.

was filed on as Application Serial No. _____ and

was amended on (if applicable).

I (we) hereby state that we have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I (we) acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §1.56(a).

I (we) hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s):

			<u>Priority Claimed</u>	
<u>(Number)</u>	<u>(Country)</u>	<u>(Day/Month/Year Filed)</u>	<u>Yes</u>	<u>No</u>
_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>

I (we) hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35,

United States Code, §112, I (we) acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

(Application Serial No.)	(Filing Date)	(Status) (Patented, Pending, Abandoned)
(Application Serial No.)	(Filing Date)	(Status) (Patented, Pending, Abandoned)

I (we) hereby appoint the following as our representative(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith: PETER J. MANSO (Reg. No. 32,264), A. M. (ANDY) ARISMENDI, JR. (Reg. No. 31,715), JOHN R. KIRK, JR. (Reg. No. 24,477), GERALD T. WELCH (Reg. No. 30,332), C. PATRICK TURLEY (Reg. No. 35,723), LISA H. MEYERHOFF (Reg. No. 36,869), KEVIN R. HANSBRO (Reg. No. 38,485), ALAN R. THIELE (Reg. No. 30,694).

Address all telephone calls to: Peter J. Manso

at telephone No.: (713) 951-3375

Address all correspondence to: Peter J. Manso, Esquire
JENKENS & GILCHRIST
1445 Ross Avenue, Suite 1800
Dallas, Texas 75202-2799

I (we) hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first inventor Eugenio A. Cefali

Inventor's signature _____

Date _____

Residence 5221 NW 78th Terrace

Citizenship USA

Post Office Address 5221 NW 78th Terrace

Applicant or Patentee: Eugenio A. Cefali

Serial or Patent No.: Unassigned

Atty.Dkt. No.: 32892.23

Filed or Issued: Concurrently

For: Intermediate Release Nicotinic Acid Compositions for Treating Hyperlipidemia Having Unique Cmax, Tmax and AUC Biopharmaceutical Characteristics.

VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS (37 CFR 1.9(f) and 1.27(c)) - SMALL BUSINESS CONCERN

I hereby declare that I am

the owner of the small business concern identified below:

an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF SMALL BUSINESS CONCERN KOS Pharmaceuticals, Inc.

ADDRESS OF SMALL BUSINESS CONCERN 1001 South Bayshore Drive, Suite 2502, Miami, FL 33131

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 CFR 121.3-18, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees under section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled Intermediate Release Nicotinic Acid Compositions for Treating Hyperlipidemia Having Unique Cmax, Tmax and AUC Biopharmaceutical Characteristics by the inventor(s) Eugenio A. Cefali described in

the specification filed herewith

application serial no. _____, filed _____

patent no. _____, issued _____

If the rights held by the above identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below* and no rights to the invention are held by any person, other than the inventor, who could not qualify as a small business concern under 37 CFR 1.9(d) or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

*NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27)

NAME

ADDRESS

INDIVIDUAL

SMALL BUSINESS CONCERN

NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING Daniel M. Bell

TITLE OF PERSON OTHER THAN OWNER President

ADDRESS OF PERSON SIGNING 1001 South Bayshore Drive, Suite 2502, Miami, Florida 33131

SIGNATURE _____

DATE _____

ASSIGNMENT OF ENTIRE INTEREST

WHEREAS, I, one of the undersigned inventors, of residence as listed, having invented certain new and useful improvements as below entitled, for which application for United States Letters Patent is made, said application having been executed on the date set forth below; and

WHEREAS, KOS PHARMACEUTICALS, INC. (hereinafter referred to as "Assignee"), with an address of 1001 South Bayshore Drive, Suite 2502, Miami, Florida 33131, desires to acquire my entire right, title and interest in and to the invention, and in and to the said application and any Letters Patent that may issued thereon;

NOW, THEREFORE, for and in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, I assign to Assignee, all right, title and interest in and to said invention and in and to said application and all patents which may be granted therefor, and all divisions, reissues, continuations, continuations-in-part and extensions thereof; and I hereby authorize and request the Commissioner of Patents and Trademarks to issue all patents for said invention, or patents resulting therefrom, insofar as my interest is concerned, to Assignee.

I also assign to Assignee, all right, title and interest to the invention disclosed in said application throughout the world, including the right to file applications and obtain patents, utility models, industrial models and designs for said invention in its own name throughout the world including all rights to publish cautionary notices reserving ownership of said invention and all rights to register said invention in appropriate registries; and I further agree to execute any and all powers of attorney, applications, assignments, declarations, affidavits, and any other papers in connection therewith necessary to perfect such right title and interest in Assignee.

I will communicate to Assignee any facts known to me respecting any improvements; and, at the expense of Assignee, I will testify in any legal proceedings, sign all lawful papers, execute all divisional, continuation, continuation-in-part, reissue and substitute applications, make lawful oaths and declarations, and generally do everything possible to vest title in Assignee and to aid Assignee to obtain and enforce proper protection for said invention in all countries.

This Assignment shall be binding on the parties' successors, assigns and legal representatives.

Title of Invention: Intermediate Release Nicotinic Acid Compositions for Treating Hyperlipidemia Having Unique Cmax, Tmax and Auc Biopharmaceutical Characteristics

Signature of Inventor: _____

Inventor's Name: Eugenio A. Cefali

Residence: 5221 NW 78th Terrace
Lauderhill, Florida 33351

Citizenship: USA

Date: _____

Date Application Executed: _____